

September 23, 2010

MEDIA, PA – Today, Congressman Joe Sestak (PA-07) – Vice Chairman of the House Small Business Committee – voted for and the House passed the Senate Amendment to H.R. 5297, the Small Business Lending Fund Act of 2010 on a vote of 237 to 287. The bill will provide \$12 billion in tax credits for small businesses, increase access to capital, and create half a million jobs. Congressman Sestak had previously voted for and the House had passed provisions within this bill on October 29 and again on June 17, but action on both of these bills had been delayed in the Senate. H.R. 5297 will now go to the White House to await President Obama's signature.

"Small businesses are the backbone of our economy, and are the foundation of our economic recovery. They represent 98% of employers in Pennsylvania and are responsible for more than half of all jobs," Congressman Sestak said. "That is why I have called for legislation to promote small businesses and to help Pennsylvania's working families. I will continue to help promote small business growth, without adding debt, to stimulate our economy in the months ahead."

H.R. 5297 increases SBA 7(a) loan limits to \$5 million, from \$2 million. According to SBA, the 7(a) loan program is the SBA's primary program to help start-up and existing small businesses obtain financing, especially when they might not be eligible for business loans through normal lending channels. It extends through December 31, 2010, the ability of the Small Business Administration (SBA) to guarantee up to 90% of qualifying small business loans originating

under the 7(a) program, and to refinance such loans. It also increases the limits on SBA 504 loans and the limits on microloans. To help small businesses access these loans, fees for SBA 7(a) and 504 loans are eliminated through December 31, 2010.

The bill establishes a \$30 billion Small Business Lending Fund, through which the Treasury Department can make investments in various financial institutions to expand the availability of credit for small business. It also provides for \$1.5 billion to create a state small business credit initiative to assist state efforts to increase private lender credit.

To promote American exports, the bill includes a number of measures to help small business with foreign exports, providing support from the Department of Commerce and the United States Trade Representative. The bill also elevates the head of the SBA's Office of International Trade to associate administrator for International Trade, responsible for trade promotion and assistance. Export finance specialists are also added to the SBA trade counseling programs.

The bill supports Small Business Development Centers, which provide critical technical assistance to small businesses owners and entrepreneurs. The bill also aids Women's Business Centers and microloan intermediaries, which provide assistance to underserved communities to start and grow small businesses.

Small businesses will create jobs across all sectors of the economy as a result of this legislation. Over 80 percent of the country's nearly 290,000 manufacturing firms have fewer

than 20 employees, and over 98 percent have fewer than 500 employees. Over 80 percent of all home builders are small businesses, and small businesses make up approximately 90% of the retail sector.

See below for full details on the legislation the House passed today:

Small Business Lending Fund

Authorizes \$30 billion to the Treasury Department for creation of such a fund, which the department would invest in preferred stock or other financial instruments from eligible institutions. Any proceeds would be used to pay down the public debt.

Application Requirements. Permits institutions with total assets of \$1 billion or less, as reported in a call report as of the end of the fourth quarter of 2009, to apply to receive a capital investment from the fund worth no more than 5% of its risk-weighted assets. Institutions with total assets of more than \$1 billion, but less than \$10 billion, could apply to receive a capital investment not exceeding 3% of risk-weighted assets, as reported in the call report immediately preceding the date of application.

Report on the institution's condition and income submitted to the Office of Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (FDIC); the Office of Thrift Supervision Thrift Financial Report; or any reports designated as successors to either of the two other reports.

In the case of a bank holding company or a savings and loan company that has one or more insured depository subsidiaries, total assets would be measured based on the combined total assets report in the call report of the insured depository institution subsidiaries as of the end of the fourth quarter of 2009. Risk-weighted assets would be measured based on the combined risk-weighted assets of the insured depository institution subsidiaries, as reported in the call report immediately preceding the date of application.

For institutions that are under the control of a bank holding company or a savings and loan company, the Treasury Department can use the fund to purchase preferred stock or other financial instruments from the top-tier bank holding company or savings and loan holding company.

The measure requires applicants to submit a small business lending plan describing how their business strategies and operating goals would allow them to address the needs of small businesses in the areas they serve. The plan would be treated as confidential supervisory information.

Consultation with Regulators. Requires the Treasury Department to consult with the appropriate federal banking agencies for each eligible institution that applies to receive a capital investment to determine whether the institution could receive such an investment.

Ineligible Institutions. Bars institutions from participation in the program if they are on the FDIC "problem bank" list, or if they have been removed from the FDIC problem bank list for less than 90 days. The problem bank list refers to the list of institutions with a current rating of 4 or 5 under the Uniform Financial Institutions Rating System, or such other list designated by the FDIC.

Incentives to Lend. The measure creates incentives for participants to increase small business lending within the first two years of the program by reducing the dividend or interest rate on the investment — to as low as 1% — the more the institution increases its small business lending compared to the baseline year-end 2009 level. In general, for the first two years the rate would be 5%, and if a participant's small business lending increases by less than 2.5%, the dividend or interest rate would remain 5%.

For lending that increases by more than 2.5%, the measure creates the following incentives — a dividend or interest rate of 4% for lending that has increased by more than 2.5%, but less than 5%; a dividend or interest rate of 3% for lending that has increased by more than 5%, but less than 7.5%; a dividend or interest rate of 2% for lending that has increased by more than 7.5%, but less than 10%; and a dividend or interest rate of 1% for lending that has increased by 10% or more.

The measure establishes a penalty rate of 7% for institutions that do not increase their small business lending after two years.

It creates a 9% rate for participating institutions on interest and dividend payments, which would apply to participants who have not paid back their loans within four and a half years.

The measure limits the reduction in the dividend or interest rate payable to the Treasury Department such that the rate reduction would not apply to a dollar amount of the investment that is greater than the dollar amount increase in the amount of small business lending under the program. It also creates rate adjustments for S-corporations to take into account differential tax treatment.

Repayment Deadline & Incentives. The sets a repayment deadline of 10 years from the beginning of the date of capital investment under the program.

The measure allows the Treasury Department to establish repayment incentives that would apply to new capital investments in a manner that the department determines to be consistent with the legislation's purposes.

Capital Purchase Program Refinance. The directs the Treasury Department to issue regulations and other guidance to permit eligible institutions to refinance securities issued to the department under the Community Development Capital Initiative (CDCI) and the Capital Purchase Program (CPP) — programs that were both created under the 2008 financial bailout law (PL 110-343) — for securities that would be issued under the program.

The program refinance would not apply to any eligible institution that has ever missed a dividend payment due under the CPP.

Minimum Underwriting Standards. The measure requires the appropriate federal banking agencies to issue regulations within 60 days of enactment defining minimum underwriting standards for loans made using program funds.

Minority Outreach. The measure requires recipients of small business lending funds to provide outreach and advertising to minority communities about the availability of small business loans. The outreach and advertising would be distributed through various print and electronic media in the appropriate language of the applicant pool.

Additional Authorities. The provides the Treasury Department with additional authorities to manage the program, including entering into contracts and authorization to issue regulations in consultation with the SBA.

Considerations. The measure directs the Treasury Department to take a number of factors into consideration when implementing the program, including — increasing the availability of credit for small businesses; providing funding to eligible institutions that serve small businesses in low- and moderate-income, minority and other underserved communities; and protecting and increasing American jobs.

It also directs the department to ensure that all eligible institutions apply to participate in the program without geographic discrimination, provide transparency with respect to the use of funds provided under the measure, minimize the cost to taxpayers, and promote financial education to would-be borrowers.

Oversight & Audits. The directs the Government Accountability Office (GAO) to audit the program and requires the Treasury Department's inspector general to conduct oversight.

Authorization & Treatment of Capital Investments. The measure authorizes the appropriation of such sums as may be necessary to pay the costs of \$30 billion in capital investments to eligible institutions through the fund. It clarifies that the cost of capital investments under the fund would be determined as provided under the Federal Credit Reform Act.

Termination of Authorities. The measure terminates the authority to make capital investments in eligible institutions one year after the date of enactment, but continues the authorities of the Treasury Department to manage the program.

Preservation of Authority. The states that nothing in the measure should be construed as limiting the authority of the Treasury Department under any other provision of law.

Assurances. The measure clarifies that the program would not be part of the Troubled Assets Relief Program (TARP). It provides that participants could repay the investment without impediment in the event that a change in law modifies the terms of the program in an adverse respect.

Small-Business Tax Incentives

Extension of Bonus Depreciation. Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. As part of the 2008 stimulus, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off 50% of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired for use in the United States.

Last year's stimulus law extended the bonus depreciation rules enacted in the 2008 stimulus law to apply to capital expenditures incurred in 2009. The extended rule allowed a 50% bonus depreciation for certain property placed in service by businesses in 2009, which was allowed

against both the regular tax system and the AMT. This allowed businesses to deduct from their taxes 50% of the value of that property in addition to amounts that they could otherwise claim under depreciation rules after the item's value is adjusted to account for the bonus depreciation.

Extends the additional, first-year 50% depreciation to cover qualifying property purchased and placed in service in 2010.

Increased Expensing Deductions for 2010 & 2011. Under current law, taxpayers can deduct up to \$250,000 for capital expenditures for the 2010 tax year, subject to a phase-out once these capital expenditures exceed \$800,000. After 2010, the thresholds revert to \$25,000 and \$200,000, respectively.

Increases — to \$500,000, from \$250,000 — the amount that businesses could deduct for 2010 and 2011 for certain tangible personal property that is purchased for use in the active conduct of a trade or businesses in the year of acquisition in lieu of recovering these costs over time through depreciation. The measure also increases from \$800,000 to \$2 million the phase-out threshold at which the deduction is reduced.

Within those thresholds, also allows taxpayers to expense up to \$250,000 of the cost of qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property.

Health Insurance Deduction for Self-Employment Taxes. Allows business owners to deduct the cost of health insurance incurred in 2010 for themselves and their family members when calculating their 2010 self-employment tax. Under current law, business owners are not allowed to deduct the cost of health insurance for themselves and their family members when calculating self-employment tax.

General Business Credits Not Subject to AMT. Under current law, taxpayers can generally only claim allowable general business credits against their regular tax liability, and only to the extent that their regular tax liability exceeds their alternative minimum tax (AMT) liability. A few credits can be used to offset the AMT, such as the credit for small business employee health insurance.

Allows certain small businesses to use all types of general business tax credits against the AMT. The change would apply to general business credits for those sole proprietorships, partnerships and non-publicly traded corporations with \$50 million or less in average annual gross receipts for the prior three years.

The provision would be effective for credits determined in the taxpayer's first taxable year beginning after Dec. 31, 2009, and would sunset on Dec. 31, 2010.

General Business Credit Carryback. Permits certain small businesses to "carryback" unused general business tax credits for five years, rather than the one year allowed under current law, to offset taxes paid in previous years. Current law allows any remaining amount to be carried forward for 20 years to offset future tax liabilities.

The provision applies to general business credits for sole proprietorships, partnerships and non-publicly traded corporations with \$50 million or less in average annual gross receipts for the prior three years. It would be effective for credits determined in the taxpayer's first taxable year beginning after Dec. 31, 2009, and would sunset on Dec. 31, 2010.

Exclusion of Capital Gains. The measure temporarily increases to 100% the amount of the capital gains from the sale of small business stock that can be excluded from taxation, as long as the stock has been held for at least five years. The exclusion would apply to stock acquired after the date of enactment, and before December 31.

The stimulus bill included a 75% exclusion rate that extends to stock acquired between Feb. 17, 2009, and Jan. 1, 2011. In general, a 50% exclusion applies to the sale of small business stock held for at least five years, although the exclusion is 60% for certain empowerment zones. Gains that are not excluded are subject to ordinary income tax rates or 28%, whichever is less.

In addition, 28% of the excluded gain is treated at the time of the sale as a tax preference item subject to the alternative minimum tax (AMT) under current law. Eliminates the AMT preference item attributable for that sale.

The amount of gain eligible for the exclusion would generally be limited to 10 times the taxpayer's basis in the stock, or \$10 million gain from the stock in that small business corporation. The 100% exclusion would be limited to individual investments and would not apply to the investments of a corporation. Qualifying small business stock would be from a C-corporation whose gross assets would not exceed \$50 million and would meet a specific active business requirement.

Temporary Reduction in S-Corporation Holding Period. Under current law, a C-corporation converting to an S-corporation is generally required to hold onto any appreciated assets for 10 years following its conversion, or face a business-level tax imposed on the built-in gain at the highest corporate rate of 35%. This holding period is reduced where the seventh taxable year in the holding period preceded the taxable year beginning in 2009 or 2010.

Temporarily shortens the required holding period for assets subject to the built-in gains tax to five years, if the fifth taxable year in the holding period precedes the taxable year beginning in 2011. This provision applies to taxable years beginning after Dec. 31, 2010, and sunsets on Dec. 31, 2011.

Special Rule for Long-Term Contract Accounting. Separates bonus depreciation from the allocation of contract costs under the "percentage of completion" accounting method rules, which would apply to assets with a depreciable life of seven years or less. The change would allow contractors that do not complete contracts within the same year in which they are entered into to benefit from bonus depreciation.

Increased Deduction of Start-Up Expenses. Under current law, taxpayers can deduct up to \$5,000 for start-up expenditures for the tax year in which active business begins. The amount that can be deducted is reduced by the amount that start-up expenditures exceed \$50,000. Businesses can elect to deduct any remaining amounts through amortization over a 15-year period.

Doubles, from \$5,000 to \$10,000, the amount that businesses could deduct for start-up expenditures in 2010, which would apply to amounts of money that would have been deductible as business expenses had they not been paid for before business began.

Increases, from \$50,000 to \$60,000, the phase-out threshold at which the deduction would be reduced.

Limit Penalty for Failure to Disclose Certain Information. Limits penalties enacted under a 2004 law for failures to disclose reportable transactions — which the Treasury Department requires to be disclosed because of the potential for tax avoidance — so they would be based on the resulting tax benefits. The change would apply to penalties assessed after Dec. 31, 2006, and thus would be retroactive.

Under current law, there are six categories of reportable transactions, including "listed transactions," which are a type of transaction identified by the IRS through guidance as a tax avoidance transaction. The penalty for failure to disclose a reportable transaction other than a listed transaction is \$10,000 for individuals and \$50,000 in any other case; the penalty for failure to disclose listed transactions is \$100,000 for individuals and \$200,000 in any other case.

Maximum penalties under the 2004 law can range from \$10,000 to \$100,000 for individuals, and from \$50,000 to \$200,000 in any other case.

Taxpayers who do not adequately disclose a reportable transaction are also subject to an increased penalty equal to 30% of the understatement. Since the 2004 law was enacted, the penalties assessed by the IRS were often applicable to small businesses and individuals and exceeded the tax savings claimed on their tax returns.

Changes the general rule for determining the amount of the applicable penalty to achieve proportionality between the penalty and tax savings. It limits the penalty to 75% of the reduction in taxes resulting from the reportable transaction. The measure retains the maximum penalty amounts, and establishes a minimum penalty of \$5,000 for individuals and \$10,000 for corporations.

Removal of Cellular Telephones from Listed Property. "Delists" cell phones so their cost could be deducted and depreciated like other business property without being subject to recordkeeping requirements that are considered burdensome. The change would apply in tax

years beginning after Dec. 31, 2009. Under a 1989 law covering the tax treatment of employer-provided cell phones, mobile devices are treated as executive perks or luxury items for tax purposes. The provision was written when cell phones were far more expensive and used by only a small number of people. Under current law, cell phones are defined as "listed property," which require substantial documentation of business use in order for a taxpayer to benefit from accelerated depreciation and for the mobile phone not to be treated as taxable income to the employee. Other types of listed property include passenger automobiles, property used generally for entertainment or recreation, and computers.

Revenue-Raising Provisions

Allow Rollovers from Elective Deferrals to Roth Accounts. The allows 401(k), 403(b) and governmental 457(b) retirement plans to permit participants to roll their pre-tax account balances into a Roth account. Contributions to Roth accounts are made on an after-tax basis, but distributions of both principal and earnings are generally tax-free.

The amount of the rollover would be includible in taxable income except to the extent it is the return of after-tax contributions. If the rollover is made in 2010, the participant could elect to pay the tax in 2011 or 2012. The change would apply to distributions after the date of enactment.

Permit Partial Annuitization for Annuities Contracts. The permits holders of nonqualified annuities — annuity contracts held outside of a tax-qualified retirement plan or IRA — to elect to receive a portion of the contract in the form of a stream of annuity contracts, leaving the remainder of the contract to accumulate income on a tax-deferred basis. The change would apply to tax years beginning after Dec. 31, 2010.

Allow 457(b) Participants to Treat Elective Deferrals as Roth Contributions. The allows retirement savings plans sponsored by state and local governments — governmental 457(b) plans — to include Roth accounts, which are currently available only in 401(k) and 403(b) plans and will be available in the federal Thrift Savings Plan in 2011. The change would apply to tax years beginning after Dec. 31, 2010.

Contributions to Roth accounts are made on an after-tax basis, but distributions of both principal and earnings are generally tax-free.

Information Reporting for Rental Property Expense Payments. The requires certain taxpayers to report additional information for rental property expense payments, which would apply to payments made after Dec. 31, 2010.

The measure treats recipients of rental income from real estate as persons engaged in a trade or business for purposes of information reporting requirements. Recipients making payments of \$600 or more to a service provider such as a plumber, with respect to the rental property, would be required to provide an information return, such as Form 1099-MISC, to the IRS and the service provider.

Source Rules on Guarantees. Under current law, if guarantee fees are sourced (i.e., treated as a U.S.-source or foreign-source income) like services, they are sourced according to the location in which the services were performed. If the guarantee fees are sourced like interest, however, they are sourced by reference to the country of residence of the payor.

A recent court case determined that guarantee fees should be sourced like services, which would permit U.S. subsidiaries of foreign corporations to engage in "earning-stripping" transactions by making deductible payments to foreign affiliates without the imposition of U.S. withholding tax on the payment.

The provides that guarantees issued after the date of enactment would be sourced like interest, and if paid by U.S. taxpayers to foreign persons, would generally be subject to withholding tax. The measure stipulates that no inference is intended with respect to the treatment of guarantees issued before the date of enactment.

Tax Credit Ineligibility for Crude Tall Oil. Congress enacted a \$1.01 per gallon tax credit in 2008 for the production of biofuel from cellulosic feedstocks in order to encourage the development of new production capacity for biofuels that are not derived from food source materials.

Like the House-passed bill, the limits eligibility for the cellulosic biofuel producer tax credit to fuels that are not highly corrosive, and thus could be used in a car engine or home heating application. This would effectively exclude crude tall oil — a waste by-product of the paper manufacturing process — from the credit. Congress has already voted to exclude other unprocessed fuels such as black liquor from benefitting from it. The change would apply to fuels sold or used on or after Jan. 1, 2010.

Apply Continuous Levy to Employment Tax Liability of Certain Contractors. The authorizes the IRS to issue levies prior to a collections due process hearing for federal employment tax liabilities of federal contractors. The change would apply to levies issued after the date of enactment.

According to the Ways and Means Committee, delaying the collection of taxes until the completion of collections due process procedures may deprive the federal government the opportunity to levy payments and allow taxpayers to abuse such procedures and still receive payment.

Increase in Information Return Penalties. The increases information return penalties for participants in certain transactions, which would apply to information returns required to be filed on or after Jan. 1, 2011.

The measure increases the first-tier penalty to \$30, from \$15, and increases the calendar-year maximum to \$250,000 from \$75,000. It increases the second-tier penalty to \$60, from \$30, and increases the calendar-year maximum to \$500,000 from \$150,000. It increases the third-tier penalty to \$100 from \$50, and increases the calendar-year maximum to \$1.5 million, from \$250,000.

For small business tax filers, the calendar year maximum penalty would be increased to \$75,000, from \$25,000, for the first-tier; \$200,000 from \$50,000, for the second tier; and \$500,000, from \$100,000, for the third tier.

The minimum penalty for each failure due to intentional disregard would be increased to \$250,

from \$100. The penalty amounts would be adjusted for inflation every five years.

Corporate Estimated Tax Payments. The adjusts the estimated corporate tax payments that corporations with at least \$1 billion in assets would be required to pay in 2015. These changes help make the measure comply with pay-as-you-go rules for the first five year "window" used to determine budgetary effects of legislation. The provisions have no net impact through FY 2020.

The measure increases — by 36 percentage points — the required corporate estimated tax payments that corporations with assets of at least \$1 billion would pay be required to pay in July, August and September 2015, which would shift an estimated \$21.2 billion in revenue from FY 2016 to FY 2015. The amount of the payments due in the next quarter would be reduced by a corresponding amount.

Annual Reports on Penalties. The requires the IRS to report each year to the House Ways and Means and Senate Finance committees on certain penalties and other enforcement tools. The first report would have to be submitted no later than Dec. 31, 2010.

The annual report would cover penalties on understatements with respect to reportable transactions, abusive tax shelters, failure to furnish information regarding reportable transactions, failure to include reportable transaction information in a tax return, and failure to maintain a list of advisees with respect to a reportable transaction.

State Small Business Credit Initiative

Federal Funds Allocated to States. The measure requires funding for the initiative to be allocated to states using an average of the formula used in the Recovery Zone Bond program in the stimulus bill and the more recent Recovery Zone Bond formula used in the House-passed Small Business and Infrastructure Jobs Tax Act.

Each state would be guaranteed a minimum allocation of 0.9%.

The measure directs the Treasury Department to disburse the funds in one-third increments — the first one-third increment would be released to the state after approval of their plan; the second increment released when the state has utilized or obligated 80% of the first allocation and the department's inspector general has audited the use of such funds; and the third increment would be released after 80% of the second increment is obligated and the disbursement is completed. The measure allows the department to withhold any allocation pending the results of an audit.

Permits states to use only federal funds for an approved state lending program, and thus they would not have to match the federal funds with state money. Federal funds also could be used as collateral for a qualifying loan or swap lending facility, and to pay for administrative costs, although administrative costs would be capped at 5% for the first installment of funds and 3% for the remaining funds.

The measure requires any state allocation that is not transferred to the state within two years to go back to the Treasury Department's general fund.

Approving States for Participation. Requires a state to follow certain steps to receive approval from the Treasury Department to participate in the program. The state would be required to designate a department or agency to implement the program, submit an application to the Treasury Department, and enter into an agreement with the Treasury Department that binds the state to comply with national standards set forth in the bill.

The state also would be required to have internal control and compliance conditions, and give the Treasury Department the power to audit the program. The bill also requires the state program to begin extending credit within 90 days. In addition, the measure requires the state to provide an annual update to the Treasury Department detailing how it allocates its federal funds among the state programs.

Approving State Capital Access Programs. The measure requires state capital access programs to provide portfolio insurance for business loans based on a separate loan-loss reserve fund for each financial institution supported by premium insurance payments from

lenders and borrowers to the reserve fund for each loan. The state also would be required to make a payment to the reserve fund for each loan matching the premium insurance payment made by the borrower and lender, and the state could use its federal funds for this purpose. The borrower would be required to have 500 or fewer employees, and loans could not exceed \$5 million.

The measure requires states to ensure that participating financial institutions have the capacity to participate successfully in the program. The state would create the reserve fund at each lending institution by opening an account at that institution under the state's name. Loan terms would be set between the lender and the borrower.

The lender would be required to have a meaningful amount of its own capital at risk. The premium insurance charges would be set by the financial institution, but would be between 2% and 7% of the loan amount. The state could make an additional contribution to the loan fund using non-federal funds.

The measure requires the borrower to agree to use the loan for a business purpose, and borrowers could not be an officer, director or principal shareholder of the financial institution, or an immediate family member of such a person. The financial institution could not use the loan fund to cover a prior debt or refinance an existing loan.

Approving Collateral Support & Credit Initiatives. The measure requires states to establish a policy under which every dollar of federal investment would be matched by at least one dollar of private funds in each program funded. States also would be required to show that their programs would support at least \$10 in private lending for every one dollar in federal support. Participating lenders would be required to share in the risk of default with the government.

The measure stipulates that the credit support would target an average borrower size of 500 employees or fewer, and that the program could not extend credit support to borrowers with more than 750 employees. The credit support would target loans with an average principal amount of \$5 million, and could not extend credit for loans with principal amounts of more than \$20 million.

The measure requires the Treasury Department to consider, when determining whether to

approve an application, the extent that increased lending would expand economic opportunities, the operational capacity of the state to carry out the program, and the ability of the state program to manage increase lending capacity. The department also would consider whether the administrative accounting and internal controls of the program would be sufficient to safeguard against waste or fraud, and would consider the soundness of the program design and implementation plan.

Remedies for State Program Termination. The measure stipulates that federal funding could be reduced or eliminated if a state terminates its program, fails to submit required reports, or violates the terms of the agreement entered into with the Treasury Department. Funds that are reduced or eliminated would be reallocated to participating states.

Implementation & Administration. The measure requires the Treasury Department to coordinate with the SBA and bank regulators in the administration of the program, establish minimum national standards, provide technical assistance to states, disseminate best practices, manage program integrity functions, and ensure adequate oversight.

The measure allows the Treasury Department to use expedited contracting procedures during the first year after enactment to carry out the program.

Termination. The Treasury Department's authority to administer the program would expire after seven years.

Regulations & Oversight. The measure directs the Treasury Department to consult with the SBA to issue regulations and other guidance as necessary or appropriate. It requires the department's inspector general to conduct audits of the program funds, and directs the GAO to perform an annual audit of the program and report to Congress.

SBA Programs

SBA Loan Programs. The increases SBA 7(a) loan limits to \$5 million, from \$2 million. According to SBA, the 7(a) loan program is the SBA's primary program to help start-up and existing small businesses obtain financing when they might not be eligible for business loans through normal lending channels. It also extends through December 31 the ability of the the Small Business Administration (SBA) to guarantee up to 90% of qualifying small business loans originating under the 7(a) program, and to refinance such loans.

The measure also increases — to \$5.5 million, from \$1.5 million — the limits on SBA 504 loans. Under the 504 loan program, long-term, fixed-rate financing is provided to businesses by Certified Development Companies to acquire fixed assets.

The measure extends fee eliminations under the SBA 7(a) loan program and the 504 program through Dec. 31, 2010. The fee eliminations, which were enacted as part of the economic stimulus law (PL 111-5), are set to expire on September 30.

The measure increases maximum loan limits under the microloans program to \$50,000, from \$35,000. According to the SBA, the microloans program provides short-term loans for working capital or the purchase of inventory, supplies, furniture, fixtures, machinery and/or equipment.

The also temporarily increases the maximum loan amount under the 7(a) Express loans program to \$1 million, from \$300,000, to increase working capital to small businesses. That provision would sunset one year after the bill's enactment.

Reduce SBA Non-Federal Share. Allows SBA to waive or reduce the non-federal share of its funding requirements for a fiscal year, or successive fiscal years. The change is intended to aid Women's Business Centers and microloan intermediaries, which provide assistance to underserved communities to start and grow small businesses.

Small Business Development Centers. Authorizes an additional \$50 million for Small Business Development Centers to provide technical assistance to small businesses owners and entrepreneurs. It requires that each state receive at least \$325,000.

New Markets Venture Capital Company Limitations. Sets limitations for New Markets Venture Capital companies under the SBA New Markets Venture Capital program. It stipulates that such companies could not acquire or issue commitments for securities for any single enterprise in an aggregate amount equal to more than 10% of the sum of the regulatory capital of the covered New Markets Venture Capital company and the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.

Alternative Size Standards. Directs the SBA to establish an alternative size standard for applicants for 7(a) and development company loans that uses maximum tangible net worth and average net income as an alternative to the use of industry standards.

SBA Secondary Market Guarantee Authority. The stimulus law (PL 111-5) included a provision that authorized the SBA to make loans to broker-dealers in the secondary market, which enabled broker-dealers to purchase the SBA's guaranteed portion of loans from lenders, thereby allowing lenders to provide more loans. Under current law, the program terminates two years after enactment of the stimulus law.

Extends authority for the program until two years after the date of the first sale of a pool of 504 loans to a third-party investor.

Small Business Intermediary Lending Pilot Program. It establishes a three-year small business intermediary lending pilot program under which the SBA would make direct loans to eligible nonprofit lending intermediaries, for the purpose of making loans to new established and growing small businesses. Eligible intermediaries desiring a loan would submit an application to the SBA describing the types of small businesses to be assisted, the size and range of loans to be made, the interest rate and terms of loans to be made, the geographic area to be served, an analysis of small business access to credit in the area, and the qualifications of the applicant.

Aquaculture Business Disaster Assistance. Under current law, aquaculture businesses are excluded from receiving SBA Economic Injury Disaster Loans. It allows the SBA to make economic injury disaster loans to these businesses, provided the loans would not duplicate other federal disaster programs for a disaster.

Online Lending Platform. Expresses the sense of Congress that the SBA should establish a website that lists each lender that makes loans guaranteed by the SBA and provides information about the loan rates of each such lender. It also urges that the website allow prospective borrowers to compare rates on loans guaranteed by the SBA.

Small Business Trade and Exporting

Authorize Appropriations for Office of the United States Trade Representative. The authorizes funds for the Office of the U.S. Trade Representative market access and trade enforcement activities targeted at helping small businesses increase market access and ensure a level playing field on which to sell their U.S.-made goods. The Office of the U.S. Trade Representative plays an important role in promoting U.S. exports and recently increased its focus on small business export promotion. The office has created the position of assistant U.S. trade representative for Small Business, Market Access and Industrial Competitiveness to help ensure that trade policy addresses the challenges facing smaller U.S. exporters and promotes global export opportunities for them.

Commerce Department Activities. The measure requires increased staffing at the Commerce Department in carrying out the mission of promoting U.S. exports, requiring the addition of at least 80 positions over a two-year period. It authorizes such sums as may be necessary in FY 2011 and FY 2012 to carry out the increased staffing. It authorizes \$30 million to promote the participation of small and medium-sized businesses in the global marketplace. It also authorizes \$5 million in each of fiscal years 2011 and 2012 to improve access of rural businesses to the global marketplace.

Office of International Trade. The measure elevates the head of the SBA's Office of International Trade to associate administrator for International Trade. The new associate administrator would be appointed with 90 days of the bill's enactment.

The Associate Administrator for International Trade would be responsible for a distribution network for programs related to trade promotion, trade finance, trade adjustment assistance, trade remedy assistance and trade data collection. The associate administrator also would establish goals for enhancing the exporting capability of small businesses.

Adds export finance specialists to the SBA trade counseling programs.

State Trade and Export Promotion Grant Program. Establishes a three-year State Export Promotion Grant Program to make grants to states to increase the number of small businesses that export. The grants would assist small businesses in participating in a foreign trade or mission, a foreign market sales trip, a subscription to services provide by the Commerce Department, payment of web translation fees, design of international marketing media, a trade show exhibition, participation in training workshops or any other export initiative.

The measure authorizes \$30 million annually in FY 2011 through FY 2013 to carry out the program.

International Trade Finance Programs. Increases the maximum loan amount for international trade finance programs to \$5 million, from \$1.75 million. The measure also stipulates that participation by the SBA in an international trade loan could not exceed 90%.

Manufacturing & Innovation Grants. The measure requires that decisions to fund manufacturing and innovation grants include exporting potential as one of the application considerations. According to the Senate Finance Committee, the legislation is projected to create more than 43,000 jobs.

Industry Association Export Grants. Authorizes increased funding for export grants available to industry associations and non-profit institutions.

Small Business Contracting

The measure includes several provisions intended to make small businesses more competitive when seeking federal government contracts. It includes:

- **Small Business Teaming** — establishes a Small Business Teaming Pilot Program to make grants to eligible organizations that provide assistance to teams of small businesses

seeking to compete for larger procurement contracts and authorizes \$5 million annually from FY 2010 through FY 2015 for the pilot program;

- **Small Business Contracting Parity** — places the small business contracting programs, HUBZone, 8(a), Service-Disabled Veterans and Women-Owned Businesses on a level playing field when competing for federal contracts.

- **Contract Bundling** — directs the Federal Acquisition Regulatory Council to establishing a government wide policy, within one year of the bill's enactment, on contract bundling, which is the consolidation of two or more contracts into a single prime contract. The practice has drawn concern among small businesses because it can potentially leave large government acquisitions out of reach for them.

- **Size Standards** — provides for a periodic review of small business size standards to ensure that size indicators are consistent with inflation and industry growth of small businesses.

- **Payment to Subcontractors** — requires large business prime contractors for prompt payment to small business subcontractors.

- **Reservation of Contract Parts** — directs the Office for Federal Procurement Policy to reserve parts of multiple award contracts for small businesses.

- **Acquisition Personnel Training** — requires the Federal Acquisition Institute to develop courses for acquisition personnel on small business concerns.

Medicare Fraud Provisions

Requires the Health and Human Services (HHS) Department to contract with private companies for the use of predictive modeling and other analytics technologies to identify and prevent waste, fraud, and abuse in the Medicare fee-for-service program. The modeling would identify and prevent payment of improper claims submitted under Parts A and B of Medicare.

The measure requires HHS to identify the 10 states that have the highest risk of waste, fraud, and abuse in the Medicare program, and for one year, use predictive analytics and modeling to identify and stop fraudulent claims in these states. The HHS inspector general would report to Congress after the initial year on the actual savings to the Medicare fee-for-service program, projected future savings as a result of the technologies, and the return on investment as a result of the predictive analytics technologies.

directs HHS to report to Congress on the effect the technologies have on Medicare beneficiaries and providers. If the HHS inspector general certifies more than nominal savings from the use of the technology, its use would be expanded to 10 additional states for another year. After the second year of use, HHS would conduct a second analysis and certification and expand the technologies to the Medicare fee-for-service program in every state for an additional year if the results are positive.

The measure requires that after that additional year, a third analysis would be conducted, after which HHS would expand the use of the technologies to Medicaid and the Children's Health Insurance Program. A one-year moratorium would be imposed on use of the technologies if the inspector general does not certify savings.

Born and raised in Delaware County, former 3-star Admiral Joe Sestak served in the Navy for 31 years and now serves as the Representative from the 7th District of Pennsylvania. He led a series of operational commands at sea, including as Commander of an aircraft carrier battle group of 30 U.S. and allied ships with over 15,000 sailors and 100 aircraft that conducted operations in Afghanistan and Iraq. After 9/11, the Congressman was the first Director of "Deep Blue," the Navy's anti-terrorism unit that established strategic and operations policies for the "Global War on Terrorism." He served as President Clinton's Director for Defense Policy at the National Security Council in the White House, and holds a Ph.D. in Political Economy and Government from Harvard University. According to the office of the House Historian, the Congressman is the highest-ranking former military officer ever elected to the U.S. Congress.

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